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March 18, 2020

Via ECF

Hon. Loretta A. Preska
Senior United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Lopez, et al. v. City of New York, et al., 17 Civ. 00181 (LAP)

Your Honor:

We represent Plaintiffs in this case. We write to (i) inform the Court that Ms. Laureano has been appointed administrator of Mr. Lopez's estate, (ii) request that the Ms. Laureano, as administrator of the estate of Eliezer Lopez, be substituted as Plaintiff in Mr. Lopez's stead and the caption changed accordingly, (iii) request that the Court lift the stay, and (iv) set the deadline for the submission of the Joint Pretrial Order. Defendants consent to these requests. A proposed order is attached as Exhibit A.

Mr. Lopez passed away on May 14, 2019. On June 4, Plaintiffs' counsel informed the Court of his death and asked that the case be stayed for 180 days to permit the substitution of Mr. Lopez's estate as plaintiff. Dkt. 54. The Court stayed the case on June 6, 2019, and ordered that the deadline to serve the Joint Pretrial Order be extended to thirty days after the Court substitutes Mr. Lopez's estate as a party. Dkt. 55. On December 3, 2019, Plaintiff sought an extension of the stay to February 29, 2020, Dkt. 56, which the Court granted, Dkt. 57. On February 13, 2020, Plaintiff wrote the Court to explain that, according to estate counsel, letters of administration would likely not be issued for five to seven months. Dkt. 58. As such, we asked the Court to extend the stay until thirty days after letters of administration are issued. *Id.* The Court granted the request and extended the stay. Dkt. 59.

Earlier than expected, Ms. Laureano was issued letters of administration on February 24, 2020. Accordingly, we ask that Ms. Laureano, as administrator of Mr. Lopez's estate, be substituted as a plaintiff in this case and the stay be lifted. Defendants consent to this request.

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Ms. Laureano is a proper party for substitution because she has received letters to administer the estate of her late husband. As the court explained in *Graham v. Henderson*, 224 F.R.D. 59 (N.D.N.Y. 2004):

A ‘representative’ of the deceased party’s estate is a proper party for substitution. The law of the forum state determines the capacity of the parties to sue and be sued, and under the applicable New York law, a representative is a person who has received letters to administer the estate of a decedent. N.Y. Est. Powers & Trusts Law § 1-2.13.

Id. at 64 (internal citation omitted); *see also* 7C Fed. Prac. & Proc. Civ. § 1956 (3d ed.).

We therefore respectfully request that Ms. Laureano, as administrator of Mr. Lopez’s estate, be substituted as plaintiff in the place of Mr. Lopez. Because Ms. Laureano has her own claim for loss of consortium, Ms. Laureano is the sole plaintiff in the case, bringing claims individually and as administrator of the estate of Eliezer Lopez. We ask that the Court order the Clerk to change the caption to name Plaintiff as: “Suhail Laureano, Individually and as Administrator of the Estate of Eliezer Lopez.”

Finally, it is respectfully requested that the stay be lifted and the Joint Pretrial Order be due on May 29, 2020. This additional time is necessary because of the disruption related to the COVID-19 outbreak.

Respectfully submitted,

/s/

Earl S. Ward

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c. *All counsel via ECF*